

2011 HOUSE HUMAN SERVICES

HB 1174

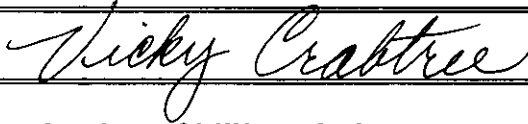
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee  
Fort Union Room, State Capitol

HB 1174  
January 17, 2011  
Job # 12930

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

To assure that medical bills and records are treated the same regarding the charged rate of reproducing them.

## Minutes:

**Chairman Weisz:** Opened the hearing on HB 1174.

**Kara Johnson:** Attorney at Zuger, Kirmis & Smith in Bismarck and here on behalf of the Association of ND Insurers. (See Testimony #1.)

**Rod Pagel:** A private attorney, who practices law in Bismarck, testified in support of the bill. There is a loophole in the current statutory language relating to medical bills. I have experienced that on my side of the equation as a private practice attorney. I have been sometimes billed year after year and those costs get passed onto the clients and don't feel that is fair to the clients. People are incurring hundreds to thousands of dollars just to get copies of their records when they could be transmitted on a CD. When they fax them to me that is little costs to the facility in that situation.

**Chairman Weisz:** Anyone else in support? Anyone here in opposition on HB 1174? If not we will close the hearing on HB 1174.

**Chairman Weisz:** Let's look at HB 1174.

**Rep. Porter:** The only concern I have with this bill is the part on the facsimile portion. The first 25 pages and 25 cents per page after that. When we did this bill some time ago and set this fee schedule. We set that fee on the top part a base rate of 25 or 20 dollars and then the per charge after that was typically it takes up an hour's worth of time from start to finish to do the request. Had to do with time not paper. The fees should cover that hour's worth of work.

**Chairman Weisz:** You don't have an issue with 25 cents per page, but the 10 should be at least 20.

**Rep. Porter:** Exactly. The fee should match no matter what format they are using.

**Rep. Hofstad:** I would agree with Rep. Porter. These things can be overwhelming especially in a small facility. Could have a case with years of time and to research all those records are time consuming.

**Chairman Weisz:** Any further discussion? You think this should stay at \$20 as it is currently? Rep. Porter would you like to offer an amendment?

**Rep. Porter:** I would move the amendments Ms. Johnson brought in; in addition to changing all of the fees so they match. \$20 for first 25 pages and 75 cents after 25 pages. (See attachment #2.)

**Rep. Devlin:** Second.

**Chairman Weisz:** Page 2, line 2 will change from \$10 to \$20 and then the 25 cents will become 75 cents.

**Rep. Porter:** On her amendment, page 2 subsection 5 on the second to last line, \$10 to \$20 and 25 cents to 75 cents.

**Voice Vote: 13 yeas, 0 nays, 0 absent**

**Rep. Porter:** I recommend a Do Pass as amended.

**Rep. Anderson:** Second.

**Vote: 13 yeas, 0 nays, 0 absent DO PASS AS AMENDED**

January 17, 2011

VR  
11/11/11  
1062

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1174

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "23-12-14" insert "and 26.1-41-12"

Page 2, line 2, replace "ten" with "twenty"

Page 2, line 2, replace the second "twenty-five" with "seventy-five"

Page 2, after line 3, insert:

**"SECTION 2. AMENDMENT.** Section 26.1-41-12 of the North Dakota Century Code is amended and reenacted as follows:

**26.1-41-12. Discovery of facts about an injured person.**

1. Every employer or claimant, if a written request is made by a basic no-fault insurer against whom a claim has been made, shall furnish forthwith, in a form approved by the insurance commissioner, a sworn statement of the earnings, since the time of the accidental bodily injury and for a twelve-month period before the injury, of the individual upon whose injury the claim is based.
2. Every physician, coroner or medical officer, hospital, clinic, or other medical institution providing, before or after an accidental bodily injury upon which a claim for basic or optional excess no-fault benefits is based, any products, services, or accommodations in relation to the injury, or in relation to a condition claimed to be connected with the injury, if requested in writing to do so by the basic no-fault insurer against whom the claim has been made, shall:
  - a. Promptly furnish a written report of the history, condition, treatment, and dates and costs of treatment.
  - b. Permit the inspection and copying of its records regarding the history, condition, treatment, and dates and costs of treatment.
  - c. Promptly furnish autopsy reports.
3. In the event of any dispute regarding a basic no-fault insurer's right to discovery of facts about an injured person's earnings or about history, condition, treatment, and dates and costs of such treatment, a court of record may enter an order for such discovery as justice requires.
4. A person may not charge more than twenty dollars for the first twenty-five pages and seventy-five cents per page for every page beyond twenty-five pages for providing a copy of medical records or medical bills provided to a basic no-fault insurer pursuant to this chapter. This charge includes any administrative fee, retrieval fee, and postage expense. If this charge exceeds fifty dollars and the health care provider is capable of providing the copies in an electronic, digital, or other computerized format, the health

2 of 2

care provider shall provide the copies to the requesting party in that alternative format for a flat fee not to exceed fifty dollars.

5. Except as provided in subsection 4, if medical records and bills are provided solely by facsimile transmission or some other format of transmission as provided under subsection 4, the health care provider shall provide the copies at a charge not to exceed twenty dollars for the first twenty-five pages and seventy-five cents per page thereafter."

Renumber accordingly

Date: 1-17-11  
Roll Call Vote # 5

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1174

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Porter Seconded By Rep. Devlin

| Representatives    | Yes | No | Representatives  | Yes | No |
|--------------------|-----|----|------------------|-----|----|
| CHAIRMAN WEISZ     |     |    | REP. CONKLIN     |     |    |
| VICE-CHAIR PIETSCH |     |    | REP. HOLMAN      |     |    |
| REP. ANDERSON      |     |    | REP. KILICHOWSKI |     |    |
| REP. DAMSCHEN      |     |    |                  |     |    |
| REP. DEVLIN        |     |    |                  |     |    |
| REP. HOFSTAD       |     |    |                  |     |    |
| REP. LOUSER        |     |    |                  |     |    |
| REP. PAUR          |     |    |                  |     |    |
| REP. PORTER        |     |    |                  |     |    |
| REP. SCHMIDT       |     |    |                  |     |    |
|                    |     |    |                  |     |    |
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Total (Yes) 13 No 0

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*Voice  
Vote*

Date: 1-17-11  
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1174

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Porter Seconded By Rep. Anderson

| Representatives    | Yes                                 | No                       | Representatives  | Yes                                 | No                       |
|--------------------|-------------------------------------|--------------------------|------------------|-------------------------------------|--------------------------|
| CHAIRMAN WEISZ     | <input checked="" type="checkbox"/> | <input type="checkbox"/> | REP. CONKLIN     | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| VICE-CHAIR PIETSCH | <input checked="" type="checkbox"/> | <input type="checkbox"/> | REP. HOLMAN      | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| REP. ANDERSON      | <input checked="" type="checkbox"/> | <input type="checkbox"/> | REP. KILICHOWSKI | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| REP. DAMSCHEN      | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                  |                                     |                          |
| REP. DEVLIN        | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                  |                                     |                          |
| REP. HOFSTAD       | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                  |                                     |                          |
| REP. LOUSER        | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                  |                                     |                          |
| REP. PAUR          | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                  |                                     |                          |
| REP. PORTER        | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                  |                                     |                          |
| REP. SCHMIDT       | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                  |                                     |                          |
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Total (Yes) 13 No 0

Absent \_\_\_\_\_

Floor Assignment Rep. Anderson

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1174: Human Services Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1174 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "23-12-14" insert "and 26.1-41-12"

Page 2, line 2, replace "ten" with "twenty"

Page 2, line 2, replace the second "twenty-five" with "seventy-five"

Page 2, after line 3, insert:

**"SECTION 2. AMENDMENT.** Section 26.1-41-12 of the North Dakota Century Code is amended and reenacted as follows:

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1. Every employer or claimant, if a written request is made by a basic no-fault insurer against whom a claim has been made, shall furnish forthwith, in a form approved by the insurance commissioner, a sworn statement of the earnings, since the time of the accidental bodily injury and for a twelve-month period before the injury, of the individual upon whose injury the claim is based.
2. Every physician, coroner or medical officer, hospital, clinic, or other medical institution providing, before or after an accidental bodily injury upon which a claim for basic or optional excess no-fault benefits is based, any products, services, or accommodations in relation to the injury, or in relation to a condition claimed to be connected with the injury, if requested in writing to do so by the basic no-fault insurer against whom the claim has been made, shall:
  - a. Promptly furnish a written report of the history, condition, treatment, and dates and costs of treatment.
  - b. Permit the inspection and copying of its records regarding the history, condition, treatment, and dates and costs of treatment.
  - c. Promptly furnish autopsy reports.
3. In the event of any dispute regarding a basic no-fault insurer's right to discovery of facts about an injured person's earnings or about history, condition, treatment, and dates and costs of such treatment, a court of record may enter an order for such discovery as justice requires.
4. A person may not charge more than twenty dollars for the first twenty-five pages and seventy-five cents per page for every page beyond twenty-five pages for providing a copy of medical records or medical bills provided to a basic no-fault insurer pursuant to this chapter. This charge includes any administrative fee, retrieval fee, and postage expense. If this charge exceeds fifty dollars and the health care provider is capable of providing the copies in an electronic, digital, or other computerized format, the health care provider shall provide the copies to the requesting party in that alternative format for a flat fee not to exceed fifty dollars.



5. Except as provided in subsection 4, if medical records and bills are provided solely by facsimile transmission or some other format of transmission as provided under subsection 4, the health care provider shall provide the copies at a charge not to exceed twenty dollars for the first twenty-five pages and seventy-five cents per page thereafter."

Renumber accordingly

2011 SENATE HUMAN SERVICES

HB 1174

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Human Services Committee Red River Room, State Capitol

HB 1174  
3-7-2011  
Job Number 15053

☐ Conference Committee

Committee Clerk Signature *blmorden*

### Explanation or reason for introduction of bill/resolution:

Relating to copies of medical records and medical bills.

### Minutes:

Attached testimony.

**Senator Judy Lee** opened the hearing on **Engrossed House Bill 1174**.

**Rod Pagel**, an attorney in Bismarck representing himself, testified in favor of HB 1174 and proposed an amendment. Attachment #1

**Senator Judy Lee** said they had discussed another bill recently concerning whether or not it was right for one business to regulate the costs that are charged by another when they really didn't pay them themselves. She asked why this would be different.

**Mr. Pagel** said the concern becomes the accessibility of medical records and bills to the citizens of the state. Citizens are entitled to copies of their records and bills. The concern becomes how to address the issue of cost and how to put everybody on a standard basis for that. Without the statute and provision there becomes an unlimited basis by which medical providers can charge fees. The law on the books now says medical providers can charge. If it is on the books it should be at a reasonable charge.

**Senator Judy Lee** asked who determines reasonable compared to cost.

**Mr. Pagel** said right now the legislature does.

**Senator Tim Mathern** asked if the sponsors of the bill had an opinion on this – if he was working with them.

**Mr. Pagel** said he was not working with any of them personally.

**Kara Johnson**, Attorney on the behalf of the Association of ND Insurers, testified in support. Attachment #2 They are not saying they should be regulating another industry. They are simply saying that they would like consistency in the way things are treated whether it's records or bills.

**Senator Judy Lee** asked if she was talking about more detail than is received in the bill from the provider.

**Ms. Johnson** replied no and gave an example of needing a copy years later.

**Senator Dick Dever** asked if they had occasion to transmit that information between attorneys and what they would charge for it.

**Ms. Johnson** said they do transmit between attorneys if they get the authorization to get the reproduction of medical records or bills. They do not charge.

**Senator Judy Lee** asked her if she was in agreement with the amendments by Mr. Pagel.

**Ms. Johnson** said yes.

**Senator Gerald Uglem** asked if she was comfortable with putting a specific amount in the law considering inflation.

**Ms. Johnson** said they haven't heard back from the medical community that the charge is unreasonable. She thought that it would be within their interest to have someone here and communicating with them or introducing some type of legislation to adjust for inflation if they felt it was necessary.

**Patti Kritzberger**, Education Director for the ND Health Information Management Association, testified in opposition to HB 1174. Attachment #3

**Senator Tim Mathern** asked what her position was on the original bill – if they were opposed to it also or as it is now..

**Ms. Kritzberger** said the way it is now with the \$50 cap for providing the records and electronic format.

**Senator Spencer Berry** asked if she would be in support of the bill if the cap was moved from 50 to 500.

**Ms. Kritzberger** – absolutely.

**Mike Mullen**, Assistant Attorney General, offered information that the open records law provides that the standard for copies of paper records is up to 25 cents per page. There also can be a charge for the cost of researching or retrieving records of \$25 per hour after the first hour. There can also be a charge of up to \$25 after the first hour to redact any confidential information from records that are produced under the open records law. The open records law also provides, at the very beginning, except as otherwise provided in law these are the charges. Different statutes allow state agencies special charges.

With no further testimony the hearing on HB 1174 was closed.

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee  
Red River Room, State Capitol

HB 1174  
3-21-2011  
Job Number 15731

☐ Conference Committee

Committee Clerk Signature *K. Johnson*

## Explanation or reason for introduction of bill/resolution:

## Minutes:

Attachments.

**Senator Judy Lee** opened HB 1174 for committee work. The people involved with this bill, the medical records people and the attorneys, agreed to work together on this and come up with an agreed upon amendment. Kara Johnson worked with the group and submitted a proposed amendment. Attachment #4 Mr. Pagal said he could not endorse these but would not oppose them. Attachment #5

The amendments were reviewed.

**Senator Tim Mathern** said one of his concerns was what was a paper or electronic record. He wondered if the amendments clarify whether or not it is a paper record or an electronic record.

**Senator Judy Lee** explained that according to Ms. Johnson and Ms. Selland the biggest part of the cost is the assembling of the information and she thought they considered that in the review.

Preparation of this proposed amendment included all of the people who were involved who talked about the cost of records. Kara Johnson was involved and Mr. Pagal was involved as much as he chose to be and was included with e-mails. It was the understanding of Senator Judy Lee that the group that worked on it was made up of the people who all had a stake in it - that testified.

**Senator Tim Mathern** moved to accept the amendments to 1174 as proposed by Kara Johnson in an e-mail dated March 18.

Seconded by **Senator Gerald Uglem**.

Page 2 line 21 doesn't seem to fit the bill. After discussion it was determined to be a typographical error and should say page 2 line 31. It should also say "in paper or facsimile format" on page 2 line 29.

**Senator Tim Mathern** clarified his motion to include the changes discussed.

Roll call vote 5-0-0. **Amendment adopted.**

**Senator Gerald Uglem** moved a **Do Pass as Amended**.

Seconded by **Senator Tim Mathern**.

Roll call vote 5-0-0. **Motion carried.**

Carrier is **Senator Gerald Uglem**.

Attachment #6 – Testimony from Deb Selland, NDHIMA.

Attachment #7 – Additional information from Rod Pagel

Kara Johnson

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1174

Page 1, line 8, after "services." Insert "As used in this section, "page" means one sheet of paper or 2kB of electronically stored data."

Page 1, line 24, replace "as" with "not otherwise"

Page 1, line 24, remove "or some other format of transmission"

Page 2, line 1, after "subsection" insert "1 or"

Page 2, line 2, replace "twenty" with "ten"

Page 2, line 2, replace "seventy-five cents" with "twenty-five cents"

Page 3, line 5, replace "as" with "not otherwise"

Page 3, line 7, replace "twenty" with "ten"

Page 3, line 7, replace "seventy-five cents" with "twenty-five cents"

Page 3, line 5, remove "or some other form of transmission"

Re-number accordingly

Date: 3-21-2011

Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1174

Senate HUMAN SERVICES

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Kara Johnson Amendments w/corrections

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen. Mathern Seconded By Sen. Uglem

| Senators                    | Yes | No | Senators         | Yes | No |
|-----------------------------|-----|----|------------------|-----|----|
| Sen. Judy Lee, Chairman     | ✓   |    | Sen. Tim Mathern | ✓   |    |
| Sen. Dick Dever             | ✓   |    |                  |     |    |
| Sen. Gerald Uglem, V. Chair | ✓   |    |                  |     |    |
| Sen. Spencer Berry          | ✓   |    |                  |     |    |
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Total (Yes) 5 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:



March 21, 2011

43  
3-22-11

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1174

Page 1, line 15, after "shall" insert "either"

Page 1, line 16, replace "requested" with "in paper or facsimile format"

Page 1, line 16, overstrike "no more"

Page 1, line 17, overstrike "than"

Page 1, line 18, after "pages" insert "or in an electronic, digital, or other computerized format at a charge of thirty dollars for the first twenty-five pages and twenty-five cents per page after twenty-five pages"

Page 1, line 19, remove "If this charge exceeds fifty dollars and the health care provider is"

Page 1, remove lines 20 through 24

Page 2, remove lines 1 through 3

Page 2, line 29, remove "or medical bills"

Page 2, line 29, overstrike "provided" and insert immediately thereafter "or medical bills in paper or facsimile format"

Page 2, line 30, after the period insert "In an electronic, digital, or other computerized format, a person may not charge more than thirty dollars for the first twenty-five pages and twenty-five cents per page after twenty-five pages for providing a copy of medical records or medical bills to a basic no-fault insurer pursuant to this chapter."

Page 2, line 31, remove "If this charge exceeds fifty dollars and the health care provider is capable of"

Page 3, remove lines 1 through 8

Renumber accordingly

Date: 3-21-2011

Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1174

Senate HUMAN SERVICES

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.0199.02001 Title 03000

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen. Uglem Seconded By Sen. Mather

| Senators                    | Yes | No | Senators        | Yes | No |
|-----------------------------|-----|----|-----------------|-----|----|
| Sen. Judy Lee, Chairman     | ✓   |    | Sen. Tim Mather | ✓   |    |
| Sen. Dick Dever             | ✓   |    |                 |     |    |
| Sen. Gerald Uglem, V. Chair | ✓   |    |                 |     |    |
| Sen. Spencer Berry          | ✓   |    |                 |     |    |
|                             |     |    |                 |     |    |
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|                             |     |    |                 |     |    |

Total (Yes) 5 No 0

Absent 0

Floor Assignment Sen. Uglem

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1174, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1174 was placed on the Sixth order on the calendar.

Page 1, line 15, after "shall" insert "either"

Page 1, line 16, replace "requested" with "in paper or facsimile format"

Page 1, line 16, overstrike "no more"

Page 1, line 17, overstrike "than"

Page 1, line 18, after "pages" insert "or in an electronic, digital, or other computerized format at a charge of thirty dollars for the first twenty-five pages and twenty-five cents per page after twenty-five pages"

Page 1, line 19, remove "If this charge exceeds fifty dollars and the health care provider is"

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Page 2, line 29, overstrike "provided" and insert immediately thereafter "or medical bills in paper or facsimile format"

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Page 2, line 31, remove "If this charge exceeds fifty dollars and the health care provider is capable of"

Page 3, remove lines 1 through 8

Renumber accordingly

**2011 HOUSE HUMAN SERVICES**

**CONFERENCE COMMITTEE**

**HB 1174**

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Human Services Committee Fort Union Room, State Capitol

HB 1174  
April 11, 2011  
Job #16460

☒ Conference Committee

Committee Clerk Signature

*Vicky Crabtree*

### Minutes:

See attachment #1

**Rep. Hofstad:** Opened the conference committee meeting on HB 1174. Roll call taken and Sen. Uglem absent.

**Sen. J. Lee:** Sen. Uglem is at the confirmation hearing for Karen Tyler for the securities commission and that is why he is not here.

**Rep. Hofstad:** Asked Senate to review their amendments.

**Sen. Lee:** We discussed with people from medical records about their problems and with two attorneys who were concerned about fees. The copying isn't the big deal it is all the sources where they have to go to assemble what is requested. We recognized there is more involved here and not just pushing a button on the copying machine. As the stakeholders to get together and come up with something that was workable. The amendment you see was worked out by one of the attorneys and medical records people. The second attorney won't oppose it, but was hoping it was cheaper.

**Rep. Hofstad:** This is removing the cap?

**Sen. Lee:** Looking at 03000 version it talks about a charge of \$30 the first 25 pages and 25 cents per page after that. We included medical bills. Some will be transmitted electronically and some by fax. Not fair to have a flat fee when it could be 100 pages that are being requested.

**Deb Selland:** President of the ND Health Information Management Associations. (See attachment #1)

**Rep. Hofstad:** Could you provide us with a spreadsheet that would compare what the Senate and House did?

**Deb:** What I gave you is our testimony from the Senate hearing and does show in the work flow how a request goes through. When an attorney comes in and requests any and all records for the past 3 years, they have 43 different sites they have to check into and find these records. It could be many hundreds of pages. They have to follow all HIPPA requirements and have to make sure the patient is signed off and ok with that. They have

to follow all federal and state laws and joint commission standards. It is quite time consuming. Moving the cap was our major issue. Medical bills are an issue with us because many facilities may hire out third party vendors. Acquiring a bill is a hunt and search. We didn't have a facsimile statute and didn't have a fee for facsimiles. Your version said, if the facility is capable of producing an electronic. You can scan into a PDF file, but is time consuming. If we have in paper we will do in paper if we have in electronic we will produce it electronically. We want the capability to say, this is what is easiest for us to give you and put a standardize fee on that.

**Rep. Anderson:** How many times if the full medical history requested?

**Deb:** We also wanted to make that point. If it is for continuation of care and a request comes from a physician or another hospital or clinic; that is always done free of charge. We found that 11% of the time we are able to charge and most are attorney requests. Most are any or all for x amount of years.

**Sen. Uglem:** On the amendment we have, "no more than" struck out so the charge for paper records is always going to be \$20 or more? Was that intentional?

**Deb:** No. The charge would always be \$20 for first 25 pages and 75 cents per copy after that.

**Sen. Uglem:** One page is \$20?

**Deb:** Yes.

**Sen. Lee:** Glad Deb was here to explain these.

**Rep. Hofstad:** We will go back and discuss this with our chairman and meet again. Meeting adjourned.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee  
Fort Union Room, State Capitol

HB 1174  
April 12, 2011  
Job #16526

☒ Conference Committee

Committee Clerk Signature

*Vicky Crabtree*

## Minutes:

See Attachment #1

**Rep. Hofstad:** Opened the conference committee meeting on HB 1174. Roll call was taken and all members were present. Called Deb Selland to the podium.

**Rep. Hofstad:** Thanked Deb for providing numbers for him. I had questions about that cap. Do you often fax?

**Deb Selland:** Fax is a last means of sending medical records because of the confidentiality. Only in urgent situations does our group fax records.

**Rep. Hofstad:** If you did an electronic transfer you would scan it into an e-mail or to a system that you have?

**Deb:** Some of our facilities would have to scan it into a PDF file because we have a hybrid situation where some of the record is paper and some in a GATA file that is electronic. To merge to a file you may PDF them.

**Rep. Hofstad:** (Passed out amendments. See attachment #1.) I have had this conversation with the chairman and we believe that cap places an undue burden and hardship. We are comfortable with getting rid of the house's amendment. There is some conflict in the language when 1174 came to us. It shows itself on page 1, page, line 17 when we talk about "a charge of no more than \$20" and then again on page 2, line 29 where it says, "a person may not charge more than \$20". Which would imply everything that goes out could be charged at \$20. We would like to clean that up.

**Sen. Uglen:** If we take the overstrike off, "no more than \$20", they can still charge \$20 if they want too.

**Rep. Hofstad:** (Gave everyone time to look over the amendments. (Recordings start up again at 10:58,)

**Sen. J. Lee:** Would like to know what the interested parties think about these.

**Deb:** As far as NDHIMA is concerned what Mr. St. Aubyn point out that there is just a difference of wording from one section to another. In one section it says you are required to charge \$20 and the other section you can charge up to \$20. We would be ok with either or, "no more than" or sticking with the first charge of \$20.

**Sen. Lee:** Do you see any roadblocks for you?

**Deb:** From what I can tell one requires you to charge \$20 and one allows you to charge up to \$20. We are ok with that.

**Kara Johnson:** Representative of the ND Insurers. Either way is acceptable for us as well.

**Sen. Uglem:** Can't see a big difference of your proposed amendments and what we had. What is the real difference?

**Kara:** The difference is the Senate amendments encompass the overstrike of the "no more than" on page 1. The differences on page 2, with the "not more than" versus "may not charge more than. Making those two consistent is the purpose of this amendment.

**Sen. Uglem:** You are eliminating the "not more than" in both places \$20. I was under the impression we wanted to do it the other way so they do not need to charge that amount, but they may.

**Karla:** We prefer it the other way.

**Sen. Uglem:** We still feel the language should be, "no more than" to allow in both places.

**Rep. Hofstad:** Our intent is so they can charge up to.

**Sen. Uglem:** If we remove the overstrike in both places.

**Rep. Hofstad:** That is agreeable with us.

**Steven Podoll:** Legislative intern for the House Human Services Committee. Asked if there was a reason for a "shall" rather than a "may" on the second page.

**Sen. Uglem:** I believe that "shall provide" is so that the facility cannot refuse to provide the records.

**Sen. Lee:** If we would just delete the two entries, page 1, line 16, overstrike "no more" and page 1, line 17, overstrike "than" so we would leave the "no more than" in there. We would eliminate that from your amendments. Then on page 2, line 27, we would do the same thing.

**Sen. Uglem:** Agreed that takes care of it.



**Rep. Hofstad:** I think it does too.

**Sen. Uglem:** I would move that the Senate recede from its amendments and further adopt the 02002 amendments with the two deletions. "Not more than" will remain in both places.

**Rep. Anderson:** Second.

**VOTE:** 6 y 0 n 0 absent

**Motion Carried**

**Bill Carriers:** Rep. Hofstad and Senator Uglem

April 12, 2011

YR  
4/15/11

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1174

That the Senate recede from its amendments as printed on pages 1176 and 1177 of the House Journal and pages 836 and 837 of the Senate Journal and that Engrossed House Bill No. 1174 be amended as follows:

Page 1, line 16, replace "requested" with "either in paper or facsimile format"

Page 1, line 18, after "pages" insert "or in an electronic, digital, or other computerized format at a charge of thirty dollars for the first twenty-five pages and twenty-five cents per page after twenty-five pages"

Page 1, line 19, remove "If this charge exceeds fifty dollars and the health care provider is"

Page 1, remove lines 20 through 24

Page 2, remove lines 1 through 3

Page 2, line 29, remove "or medical bills"

Page 2, line 29, overstrike "provided" and insert immediately thereafter "or medical bills in paper or facsimile format"

Page 2, line 30, after the period insert "If providing an electronic, digital, or other computerized format, a person may charge thirty dollars for the first twenty-five pages and twenty-five cents per page after twenty-five pages for providing a copy of medical records or medical bills to a basic no-fault insurer pursuant to this chapter."

Page 2, line 31, remove "If this charge exceeds fifty dollars and the health care provider is capable of"

Page 3, remove lines 1 through 8

Renumber accordingly

# 2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Human Services

Bill/Resolution No. 1174 as (re) engrossed

Date: 4-12-11

Roll Call Vote #: 1

## Action Taken

- ☐ HOUSE accede to Senate amendments  
☐ HOUSE accede to Senate amendments and further amend  
☐ SENATE recede from Senate amendments  
☒ SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) --

- ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) 1174 was placed on the Seventh order of business on the calendar

Motion Made by: Sen. Uglem Seconded by: Rep. Anderson

| Representatives |   |  |  | Yes | No | Senators |   |  |  | Yes | No |
|-----------------|---|--|--|-----|----|----------|---|--|--|-----|----|
| HOFSTAD         | ✓ |  |  | ✓   |    | Uglem    | ✓ |  |  | ✓   |    |
| ANDERSON        | ✓ |  |  | ✓   |    | Berry    | ✓ |  |  | ✓   |    |
| Kilichowski     | ✓ |  |  | ✓   |    | J. Lee   | ✓ |  |  | ✓   |    |
|                 |   |  |  |     |    |          |   |  |  |     |    |
|                 |   |  |  |     |    |          |   |  |  |     |    |

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Rep. Hofstad Senate Carrier Sen Uglem

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**REPORT OF CONFERENCE COMMITTEE**

**HB 1174, as engrossed:** Your conference committee (Sens. Uglem, Berry, J. Lee and Reps. Hofstad, Anderson, Kilichowski) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1176-1177, adopt amendments as follows, and place HB 1174 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1176 and 1177 of the House Journal and pages 836 and 837 of the Senate Journal and that Engrossed House Bill No. 1174 be amended as follows:

Page 1, line 16, replace "requested" with "either in paper or facsimile format"

Page 1, line 18, after "pages" insert "or in an electronic, digital, or other computerized format at a charge of thirty dollars for the first twenty-five pages and twenty-five cents per page after twenty-five pages"

Page 1, line 19, remove "If this charge exceeds fifty dollars and the health care provider is"

Page 1, remove lines 20 through 24

Page 2, remove lines 1 through 3

Page 2, line 29, remove "or medical bills"

Page 2, line 29, overstrike "provided" and insert immediately thereafter "or medical bills in paper or facsimile format"

Page 2, line 30, after the period insert "If providing an electronic, digital, or other computerized format, a person may charge thirty dollars for the first twenty-five pages and twenty-five cents per page after twenty-five pages for providing a copy of medical records or medical bills to a basic no-fault insurer pursuant to this chapter."

Page 2, line 31, remove "If this charge exceeds fifty dollars and the health care provider is capable of"

Page 3, remove lines 1 through 8

Renumber accordingly

Engrossed HB 1174 was placed on the Seventh order of business on the calendar.

2011 TESTIMONY

HB 1174

**Testimony in Support of House Bill 1174**  
**House Human Services Committee**  
**January 17, 2011**

Good morning Chairman Weisz and Committee Members. My name is Kara Johnson. I am an attorney at Zuger Kirmis & Smith here in Bismarck where I work with Pat Ward. I am here today on behalf of the Association of North Dakota Insurers to present House Bill 1174, a bill relating to the cost of reproducing medical bills.

The goal of this bill is to regulate the cost of having medical bills copied. Insurance companies often need to obtain medical bills and records to review, analyze and pay claims. North Dakota Century Code section 23-12-14 is a statute which is currently in place regulating the cost of copying medical records. This bill proposes an amendment to that statute to expand it so the same rules apply to obtaining copies of medical bills.

What is currently happening is that records and bills are being treated differently. Copying for records is being charged at one rate, while copying for bills is being charged at another rate which is often much higher than the statutory rate for records. While the two seem very similar, health care facilities are charging the different rates because it is acceptable under the existing law. This bill asks for them to be treated in the same manner.

If an individual has an extensive amount of medical records or bills that are being reproduced, the cost for reproducing them can become quite costly. The addition

in subsection two adds a provision to the existing law that requires health care facilities, who are capable, to provide an electronic copy for a flat fee. This provision was added to ensure that health care facilities are not charging higher rates for copying when they are capable of simply burning the medical records onto a CD, or through another electronic method, with little time or effort by their employees or costs for paper or toner.

Subsection 3 also provides an addition to the existing statute. It asks for a lower rate to be charged for the electronic transmission of copies of medical records or bills. For example, if the medical bills are provided via email.

The main purpose behind this bill is to reduce costs associated with reproducing medical bills and also medical records, where possible. If a patient would like access to these documents, we do not believe the health care facilities should be charging rates to make a major profit center out of necessary document reproduction.

We fully understand that in light of recent changes in federal health care law, there may be opposition to the language drafted within this bill. If so, we would be happy to work with anyone opposing the bill to work out appropriate and acceptable language.

Also, the insurance commissioner has pointed out that we need to make a similar change in the no fault law at section 26.1-41-12. Accordingly, an amendment to this bill will be submitted to incorporate the same changes to that section of the code.

I urge you to place a "do pass" on the bill as amended. Thank you.

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#2

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1174

Page 1, line 1, delete "section" and add "sections"

Page 1, line 1, after "23-12-14", insert "and 26.1-41-21"

Page 2, after line 3, insert:

**SECTION 2. AMENDMENT.** Section 26.1-41-12 of the North Dakota Century Code is amended and reenacted as follows:

**26.1-41-12. Discovery of facts about an injured person.**

1. Every employer or claimant, if a written request is made by a basic no-fault insurer against whom a claim has been made, shall furnish forthwith, in a form approved by the insurance commissioner, a sworn statement of the earnings, since the time of the accidental bodily injury and for a twelve-month period before the injury, of the individual upon whose injury the claim is based.
2. Every physician, coroner or medical officer, hospital, clinic, or other medical institution providing, before or after an accidental bodily injury upon which a claim for basic or optional excess no-fault benefits is based, any products, services, or accommodations in relation to the injury, or in relation to a condition claimed to be connected with the injury, if requested in writing to do so by the basic no-fault insurer against whom the claim has been made, shall:
  - a. Promptly furnish a written report of the history, condition, treatment, and dates and costs of treatment.

- b. Permit the inspection and copying of its records regarding the history, condition, treatment, and dates and costs of treatment.
  - c. Promptly furnish autopsy reports.
- 3. In the event of any dispute regarding a basic no-fault insurer's right to discovery of facts about an injured person's earnings or about history, condition, treatment, and dates and costs of such treatment, a court of record may enter an order for such discovery as justice requires.
- 4. A person may not charge more than twenty dollars for the first twenty-five pages and seventy-five cents per page for every page beyond twenty-five pages for providing a copy of medical records or medical bills provided to a basic no-fault insurer pursuant to this chapter. This charge includes any administrative fee, retrieval fee, and postage expense. If this charge exceeds fifty dollars and the health care provider is capable of providing the copies in an electronic, digital or other computerized format, the health care provider shall provide the copies to the requesting party in that alternative format for a flat fee not to exceed fifty dollars.
- 5. Except as provided in subsection 4, if medical records and bills are provided solely by facsimile transmission or some other format of transmission as provided under subsection 4, the health care provider shall provide the copies at a charge not to exceed ten dollars for the first twenty-five pages and twenty-five cents per page thereafter.

Renumber accordingly

**I. Current Statute**

**§ 23-12-14. Copies of medical records**

1. As used in this section, "health care provider" means a licensed individual or licensed facility providing health care services. Upon the request of a health care provider's patient or any person authorized by a patient, the provider shall provide a free copy of a patient's health care records to a health care provider designated by the patient or the person authorized by the patient if the records are requested for the purpose of transferring that patient's health care to another health care provider for the continuation of treatment.

2. Except as provided in subsection 1, upon the request for medical records with the signed authorization of the patient, the health care provider shall provide medical records at a charge of no more than twenty dollars for the first twenty-five pages and seventy-five cents per page after twenty-five pages. This charge includes any administration fee, retrieval fee, and postage expense.

**Reasons for the need to amend § 23-12-14 :**

- 1) Health Care providers are separately billing out for copies of "records" and copies of the "bills" which go along with the records because they don't consider this to be a "medical record". As such, for 3 pages of the records you can be charged \$20.00 and 1 page of the bills you can be charged \$20.00.
- 2) Health Care providers are charging minimum fees to search for every year in their billing systems. So if you want to get records from 2000 to 2010, this is charged at the fee in the current statute, but if you want to get the bills for these same records and physician visits, you can be charged \$100.00 (\$10.00 for each year) or more.
- 3) Health care providers are simply copying the records onto a disk and sending the disk. There is no actual copier or paper cost.
- 4) Health Care providers are faxing the records and then charging you for the copy cost. Again, there is no actual copier or paper cost to the provider in these cases.

## II. Changes as provided by Engrossed HB No. 1174

### § 23-12-14. Copies of medical records and medical bills

1. As used in this section, "health care provider" means a licensed individual or licensed facility providing health care services. Upon the request of a health care provider's patient or any person authorized by a patient, the provider shall provide a free copy of a patient's health care records to a health care provider designated by the patient or the person authorized by the patient if the records are requested for the purpose of transferring that patient's health care to another health care provider for the continuation of treatment.

2. Except as provided in subsection 1, upon the request for medical records or medical bills with the signed authorization of the patient, the health care provider shall provide the medical records and any associated medical bills requested at a charge of no more than twenty dollars for the first twenty-five pages and seventy-five cents per page after twenty-five pages. This charge includes any administration fee, retrieval fee, and postage expense. If this charge exceeds fifty dollars and the health care provider is capable of providing copies of medical records and medical bills in an electronic, digital or other computerized format, then the health care provider shall provide the copies to the requesting party in that alternative format for a flat fee not to exceed fifty dollars.

3. Except as provided in subsections 1 and 2, if medical records and bills are provided solely by facsimile transmission or some other form of transmission as identified in subsection 2, the health care provider shall provide the copies at a charge not to exceed twenty dollars for the first twenty-five pages and seventy-five cents per page thereafter.

### **III. Further Proposed Amendments.**

#### **A. Amendments to subsection 1.**

1. As used in this section, "health care provider" means a licensed individual or licensed facility providing health care services. **As used in this section, "page" means one sheet of paper or 2 kilobytes of digital information.** Upon the request of a health care provider's patient or any person authorized by a patient, the provider shall provide a free copy of a patient's health care records to a health care provider designated by the patient or the person authorized by the patient if the records are requested for the purpose of transferring that patient's health care to another health care provider for the continuation of treatment.

#### **Reason for Amendments to Subsection 1:**

The above change is made at the suggestion of the Attorney General's office (Mike Mullen). The Attorney General's office was concerned about addressing the growing transmission of records in an electronic format and providing an appropriate structure for billing in circumstances where there was not a specific number of "pages" sent but the size of the document / information was measured in kilobytes.

#### **B. Changes to subsection 3**

**3. Except as provided in subsections 1 and 2, if medical records and bills are provided solely by facsimile transmission, the health care provider shall provide the copies at a charge not to exceed ten dollars for the first twenty-five pages and twenty-five cents per page after twenty-five pages.**

#### **Reasons for Amendment to Subsections 3 / 5**

1) The substance of subsection 3 was included in the initial proposed amendment to address the faxing of medical records and bills by health care providers. The house changed this section to allow health care providers to charge the same for copying records and faxing records. Under the current wording, subsection 3 is realistically meaningless and we could just do away with it since the charge is no different than that provided by subsections 1 and 2.

2) The reason we still propose the amendment is to distinguish between actually making copies and faxing the records. As indicated above, health care providers regularly fax the records and then charge you for the copy cost. The reason we believe the cost for faxed records should be different than regular copies is because there is a difference in the expenses and time incurred by the health care providers when they fax records. These differences are as follows:

- a) There are no paper / ink / other such costs incurred when you fax the records (the paper and ink is provided by the party receiving the fax).
- b) There is no postage, etc. expense incurred by the health care provider faxing the records.
- c) Typically, health care providers don't actually sit at a fax machine anymore. Rather, their computer systems are set up to simply allow a fax directly from a computer. As such, the handling and administration fee, etc. is exceptionally minimal.

**Note:** We would propose these identical amendments to subsection (5) of N.D.C.C. §26.1-41-12.

#1

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1174

Page 1, line 8, after "health care services." Add the following sentence "As used in this section, "page" means one sheet of paper or 2 kilobytes of digital information"

Page 1, line 24, Remove "or some other format of transmission as provided under subsection 2"

Page 2, line 2, replace "twenty" with "ten"

Page 2, line 2, replace "seventy-five cents" with "twenty-five cents"

Page 3, line 5, Remove "or some other format of transmission as provided under subsection 4"

Page 3, line 7, replace "twenty" with "ten"

Page 3, line 7, replace "seventy-five cents" with "twenty-five cents"

Renumber accordingly

**Testimony in Support of House Bill 1174**  
**Senate Human Services Committee**  
**March 7, 2011**

Good morning Chairman Lee and Committee Members. My name is Kara Johnson. I am an attorney at Zuger Kirmis & Smith here in Bismarck where I work with Pat Ward. I am here today on behalf of the Association of North Dakota Insurers to testify in support of House Bill 1174, a bill relating to the cost of reproducing medical bills.

The goal of this bill is to regulate the cost of having medical bills copied. Insurance companies often need to obtain medical bills and records to review, analyze and pay claims. North Dakota Century Code section 23-12-14 is a statute which is currently in place regulating the cost of copying medical records. This bill proposes an amendment to that statute to expand it so the same rules apply to obtaining copies of medical bills.

What is currently happening is that records and bills are being treated differently. Copying for records is being charged at one rate, while copying for bills is being charged at another rate, which is often much higher than the statutory rate for records. While the two seem very similar, health care facilities are charging the different rates because it is acceptable under the existing law. This bill asks for them to be treated in the same manner.

If an individual has an extensive amount of medical records or bills that are being reproduced, the cost for reproducing them can become quite costly. The addition



in subsection two adds a provision to the existing law that requires health care facilities, who are capable, to provide an electronic copy for a flat fee. This provision was added to ensure that health care facilities are not charging higher rates for copying when they are capable of simply burning the medical records onto a CD, or through another electronic method, with little time or effort by their employees or costs for paper or toner.

As originally written, Subsection 3 intended for records that were solely sent via facsimile transmission to be charged at a lower rate. It was added because the receiving party would be the one that would incur the costs of producing the hard copies. Subsection 3 was reworded by the House Human Services Committee, to make the costs in subsections 2 and 3 the same. We ask that the committee amend HB 1174 to reflect the distinction between when hard copies and facsimile copies are being produced.

Section 2 of the bill simply makes the language of the no fault law at N.D.C.C. § 26.1-41-12 mirror the language of N.D.C.C. 23-12-14.

The main purpose behind this bill is to reduce costs associated with reproducing medical bills and also medical records, where possible. If a patient would like access to these documents, we do not believe the health care facilities should be

charging rates to make a major profit center out of necessary document reproduction.

We fully understand that in light of recent changes in federal health care law, there may be opposition to the language drafted within this bill. If so, we would be happy to work with anyone opposing the bill to work out appropriate and acceptable language.

I urge you to place a "do pass" on the bill. Thank you.

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## NDLA, S HMS

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**From:** Lee, Judy E.  
**Sent:** Saturday, March 05, 2011 12:16 PM  
**Subject:** NDLA, S HMS  
**Attachments:** FW: Amendments to HB 1174  
Amendments to Engrossed HB 1174.doc

Perhaps you can include this information in our books.

Senator Judy Lee  
1822 Brentwood Court  
West Fargo, ND 58078  
home phone: 701-282-6512  
e-mail: [jlee@nd.gov](mailto:jlee@nd.gov)

**From:** Kara Johnson [mailto:[KJohnson@zkslaw.com](mailto:KJohnson@zkslaw.com)]  
**Sent:** Friday, March 04, 2011 3:10 PM  
**To:** Lee, Judy E.  
**Subject:** Amendments to HB 1174

Senator Lee:

I wanted to let you know ahead of time that I will be proposing amendments to HB 1174 regarding medical bills and records on behalf of the Association of North Dakota Insurers. The amendment essentially asks for a revision to allow transmissions to be billed at a lower rate. As introduced the bill had also asked for lower rates; however, the House Human Services Committee revised the language to treat faxes the same as hard copies. Since the expense of reproducing the records is incurred by the recipient, we would like to see the amount charged reduced.

I also worked with the AG's office to clarify some confusion in the language in the bill. The AG's office is okay with the language as amended.

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[kjohnson@zkslaw.com](mailto:kjohnson@zkslaw.com)

THE MESSAGE AND INFORMATION CONTAINED IN OR ATTACHED TO THIS COMMUNICATION IS PRIVILEGED AND CONFIDENTIAL AND INTENDED ONLY FOR THE PERSON NAMED ABOVE. IF YOU ARE NOT THE INTENDED RECIPIENT OF THIS TRANSMISSION, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION TO ANYONE OTHER THAN THE INTENDED RECIPIENT IS STRICTLY PROHIBITED. IF YOU RECEIVED THIS COMMUNICATION IN ERROR, DO NOT READ IT. PLEASE IMMEDIATELY REPLY TO THE SENDER THAT YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR AND THEN PLEASE DELETE THIS COMMUNICATION FROM YOUR COMPUTER. THANK YOU.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1174

Page 1, line 8, after "services." Insert "As used in this section, "page" means one sheet of paper or 2kB of electronically stored data."

Page 1, line 24, replace "as" with "not otherwise"

Page 1, line 24, remove "or some other format of transmission"

Page 2, line 1, after "subsection" insert "1 or"

Page 2, line 2, replace "twenty" with "ten"

Page 2, line 2, replace "seventy-five cents" with "twenty-five cents"

Page 3, line 5, replace "as" with "not otherwise"

Page 3, line 7, replace "twenty" with "ten"

Page 3, line 7, replace "seventy-five cents" with "twenty-five cents"

Page 3, line 5, remove "or some other form of transmission"

Renumber accordingly

**NDHIMA**  
North Dakota Health Information  
Management Association

An Affiliate of  
**AHIMA**  
American Health Information  
Management Association

Quality information is essential to all aspects of today's healthcare system. Health information management (HIM) is the body of knowledge and practice that ensures the availability of health information to facilitate real-time healthcare delivery and critical health-related decision making for multiple purposes across diverse organizations, settings, and disciplines.

AHIMA members perform diverse roles in healthcare and are employed in a variety of work settings, including hospitals, physician offices, ambulatory care facilities, managed care facilities, long-term care facilities, consulting firms, information system vendors, colleges and universities, insurance providers, pharmaceutical companies, rehabilitation centers, and other venues.

Having skilled HIM professionals on staff ensures an organization has the right information on hand when and where it is needed while maintaining the highest standards of data integrity, confidentiality, and security.

**NDHIMA**  
North Dakota Health Information  
Management Association

An Affiliate of  
**AHIMA**  
American Health Information  
Management Association

[www.ndhima.org](http://www.ndhima.org)  
[www.ahima.org](http://www.ahima.org)

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Management Association

NDHIMA /AHIMA strives to be the professional community that improves healthcare by advancing best practices and standards for health information management and the trusted source for education, research, and professional credentialing.

#### **AHIMA values:**

- The public's right to accurate and confidential personal health information
- Innovation and leadership in advancing health information management practices and standards worldwide
- Adherence to the AHIMA Code of Ethics
- Advocacy and interdisciplinary collaboration with other professional organizations

#### **Vision**

Quality healthcare through quality information.

## Membership Types

### Active

Individuals interested in the AHIMA purpose and willing to abide by the Code of Ethics. Active Members in good standing shall be entitled to all membership privileges including the right to vote.

### Student

Students who do not have an AHIMA credential and have not previously been Active members of AHIMA are eligible to apply for student membership if at least one of two educational criteria is met: 1. currently enrolled in an accredited CAHIIM HIM program 2. currently enrolled in an approved AHIMA medical coding program.

### New Graduate

New Graduate membership is for AHIMA Student Members only. After graduation from an AHIMA accredited HIT, HIA, approved Coding or Masters program, AHIMA Student Members may join as a New Graduate Member at a reduced annual dues rate. This is limited to one year.

### Senior

In recognition of service to the profession, current AHIMA members 65 and over are eligible for this member type.

## Member Benefits:

- Communities of Practice (CoP)
- HIM Body of Knowledge (BoK)
- Career Assist
- Electronic Newsletters/Journal
- Web-based training
- Journal/Newsletters
- Professional Books
- Convention/Meeting Discounts
- Coding Roundtables
- Advocacy
- Local networking
- Certification
- Foundation of Research and Education (FORE) scholarship opportunities
- Volunteer opportunities
- Career Counseling
- Survey data/Special reports
- Affinity Program Partners such as: World Points Mastercard, Avis Rent a car, Capital One Auto Finance, DHL Shipping, Marsh Insurance Plan, Days Inn, etc.

## Credentials offered by AHIMA:

- Registered Health Information Administrator (RHIA)
- Registered Health Information Technician (RHIT)
- Certified Coding Specialist (CCS) and Physician-based (CCS-P)
- Certified Coding Associate (CCA)
- Certified Health Data Analyst (CHDA)
- Certified in Healthcare Privacy and Security (CHPS)



Testimony in Opposition of HB 1174

#3

Senate Human Services Committee/Red River Room

10:30 a.m. 3/7/11

Good morning Chairman Lee and Committee Members. My name is Patti Kritzberger. I am the Education Director for the North Dakota Health Information Management Association as well as the Health Information Management Director at Sakakawea Medical Center in Hazen, ND. I am here today on behalf of over 250 members of NDHIMA who are opposed to House Bill 1174, a bill relating to the cost of reproducing medical records and bills. NDHIMA members are the professionals who typically release medical record information.

While we are in agreement with some sections of the proposed bill, we are in disagreement with Section 2. Lines 19-22 "If this charge exceeds fifty dollars and the health care provider is capable of providing the copies in an electronic, digital, or other computerized format, the health care provider shall provide the copies to the requesting party in that alternative format for a flat fee not to exceed fifty dollars."

As a health information professional, I would like the committee to consider the following discussion points:

- Our association wishes to advise the committee that whether copies of medical records are provided in paper format or electronic, the work in retrieving and processing the request is equal. Copying medical records into an electronic format is **not** a simple push of a button.

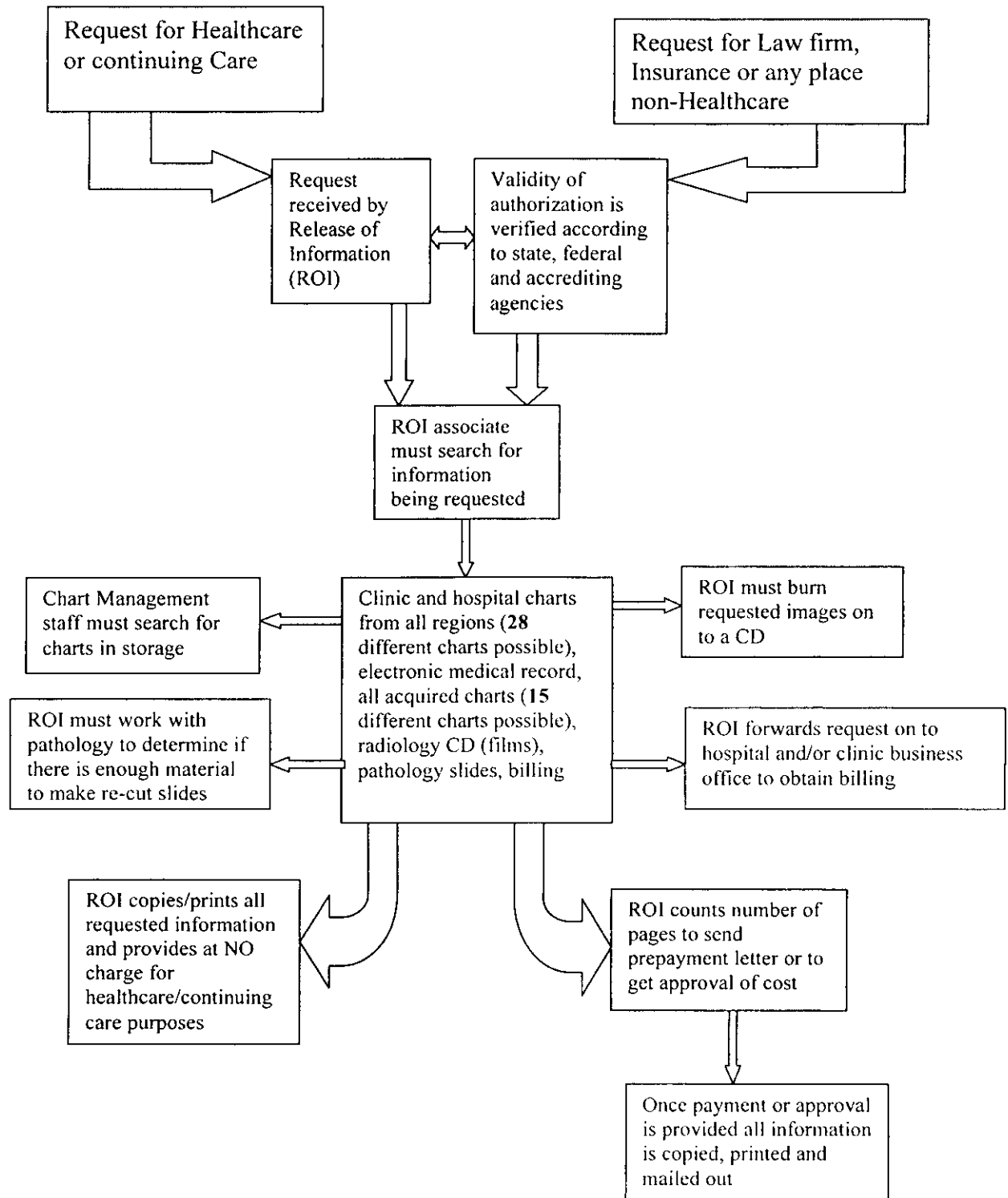
- Most facilities with electronic capabilities are working in a hybrid-type of situation. Part of a medical record may be in paper format while other parts may come from one or many computerized systems. Our story board reflects one ND facility which, depending on the request, may retrieve records from as many as 43 separate charting systems. A single medical record request may include records from multiple clinics, multiple campuses and records acquired from facility buy-outs. Additional computerized systems where records may reside include a pathology system, a radiology system and a billing system.
- Providing copies of medical records in most facilities is a totally separate process than providing copies of medical bills. At best, the Medical Record Department must coordinate with the Billing Department to obtain copies of the medical bill. Some facilities keep medical bills off-site or even hire third-party vendors to perform billing services.
- An HIM professional spends much time in making sure the request is filled properly without violating the patient's privacy rights. The authorization for release of medical information must be verified according to all state, federal and accrediting agencies prior to even beginning the process of reproducing a medical record.
- It is important for the committee to understand that, after surveying several ND hospitals, NDHIMA found that approximately 89% of all medical record requests are made for the continuation of a patient's healthcare and these requests are fulfilled **without charge** to the patient, physician, or other healthcare entity making the request.



- This leaves only 11% of all medical record requests allowable to impose a retrieval and administration fee (i.e. attorney, insurance company). It is not unusual for requests of this type to exceed 500 pages and go back five to ten years.
- Statistics gathered for the past year indicate that of the 11% of the medical record requests invoiced, 47% would have exceeded the proposed fifty dollar cap if applying the current formula. The law allows, when provided in paper format, a twenty dollar fee for the first twenty-five pages and 75 cents per page thereafter.
- NDHIMA urges the committee to remove lines 19-22 in Section 2 or raise the proposed cap from fifty dollars to five hundred dollars when records are provided in alternative formats.
- NDHIMA strongly believes that providing copies of medical records, whether in paper or electronic format, are a time-consuming, costly process. It is unfair to penalize a facility for spending money on the technology to provide an electronic version of a medical record but receive less than if providing the same record in a paper version.
- A fifty dollar cap does not take into consideration the cost of purchasing and maintaining any kind of electronic system, the wages and benefits associated with personnel producing the electronic copy, nor does it cover the cost of materials (paper, copy machine toner) involved in fulfilling the request.

Thank you for allowing me the opportunity to voice the concerns of the ND Health Information Management Association with HB 1174. Unless amended, NDHIMA recommends a no vote on HB 1174. I would be glad to answer any questions from the committee at this time.

## *Release of Information Process to Produce Electronic Medical Records*



#4

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**From:** Kara Johnson [mailto:KJohnson@zkslaw.com]  
**Sent:** Friday, March 18, 2011 16:01  
**To:** 'Jeff C. Nelson'  
**Cc:** 'd.selland@bis.midco.net'; Rod Pagel  
**Subject:** Proposed Amendment to HB 1174

Senator Lee:

I apologize that it has taken us so long to get an agreed upon proposal to you. The attached proposed amendment has been agreed to by both my client, the Association of North Dakota Insurers (ANDI), and the North Dakota Health Information Management Association (NDHIMA), represented by Deb Selland. I have also received approval of the amendment from the Attorney General's Office and the Insurance Department.

Rod Pagel who testified in support of the bill in committee has indicated to me that he cannot endorse the attached amendment, but that he will also not oppose it.

If you have any questions at all on the agreed upon proposal, please let me know. Thank you.

Kara J. Johnson  
Zuger Kirmis & Smith  
316 North 5th Street  
P.O. Box 1695  
Bismarck, ND 58502-1695  
Telephone: (701)223-2711  
Facsimile: (701) 223-7387  
[kjohnson@zkslaw.com](mailto:kjohnson@zkslaw.com)

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1174

Page 1, line 15, after "shall" insert "either"

Page 1, line 16, replace "requested" with "in paper or facsimile format", and remove "no more"

Page 1, line 17, remove "than"

Page 1, line 18, after "pages" insert "or in an electronic, digital or other computerized format at a charge of thirty dollars for the first twenty-five pages and twenty-five cents per page after twenty-five pages"

Page 1, line 19, remove "If this charge exceeds fifty dollars and the health care provider is"

Page 1, remove lines 20-24

Page 2, remove lines 1-3

Page 2, line 29, replace "provided" with "in paper of facsimile format"

Page 2, line 30, after the period insert "In an electronic, digital or other computerized format, a person may not charge more than thirty dollars for the first twenty-five pages and twenty-five cents per page after twenty-five pages for providing a copy of medical records or medical bills to a basic no-fault insurer pursuant to this chapter."

Page 2, line ~~3~~1, remove "If this charge exceeds fifty dollars and the health care provider is capable of"

Page 3, remove lines 1-8

Renumber accordingly

#5

**From:** Rod Pagel [mailto:rpagel@pagelweikum.com]  
**Sent:** Friday, March 18, 2011 4:59 PM  
**To:** Kara Johnson; Lee, Judy E.  
**Cc:** d.selland@bis.midco.net  
**Subject:** RE: Proposed Amendment to HB 1174

Senator Lee:

I will attempt to be brief in my explanation of why I cannot endorse the bill:

- 1) The Amendments as now proposed actually INCREASE the cost of medical records when patients are seeking less than 38 pages of records (see calculations below for explanation) and the medical provider chooses to provide those records in an electronic format. I cannot endorse a bill which now gives the health care provider the option of providing records in an electronic (and presumptively less expensive) format and then the health care provider gets to actually charge more (\$30.00 v. \$20.00) for any number of pages less than 38 pages. The effort of this bill was to make costs more reasonable, not to increase those costs, and as such, I cannot endorse the Amendments.

|                       |  |
|-----------------------|--|
| Paper Copies:         | 38 pages or less: \$20.00 for first 25 pages & \$9.75 for remaining 13 |
| pages = \$29.75 total |  |
| Electronic Copies:    | 38 pages or less: \$30.00 for first 25 pages & \$3.25 for remaining 13 |
| pages = \$33.25 total |  |

- 2) The bill was intended to encourage environmental sensitivity to the fact that when electronic copies can be provided, those should be provided rather than paper copies so thousands upon thousands of pages of paper do not have to be used to make copies. In my opinion, the Amendments do not encourage the use of electronic copies since the health care provider can simply choose which option (paper or electronic) to use.
- 3) Through the use of the word "either", the amendments simply give the health care provider the option of choosing the method which will generate the most income (i.e. electronic copies if less than 38 pages or less and paper copies if more than 38 pages) the most money for the health care provider.

These are the reasons I cannot endorse the Amendments to the bill as proposed.

Thank you for your consideration.

Rodney E. Pagel  
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1715 Burnt Boat Drive  
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Bismarck, ND 58503  
Phone: (701) 250-1369  
Fax: (701) 250-1368  
e-mail: [rpagel@pagelweikum.com](mailto:rpagel@pagelweikum.com)

#6

**Subject:** HB 1174

Good Afternoon Senators Andrist and Lee,

As president of the ND Health Information Management Association (NDHIMA), I have great concerns for the members of NDHIMA if HB 1174 passes as currently written. The bill puts a \$50 cap on a facility if medical records can be made available in an electronic format.

Please take a moment to consider the following:

- Our association believes that whether copies of medical records are provided in paper format or electronic, the work in retrieving and processing the request is equal. Copying medical records into an electronic format is not a simple push of a button.
- Most facilities with electronic capabilities are working in a hybrid type of situation. Part of a medical record may be in paper format with other parts coming from one or many computerized systems. A \$50 cap does not take into consideration the cost of purchasing and maintaining any kind of electronic system nor the wages and benefits associated with personnel producing the electronic copy.
- An HIM professional spends much time in making sure the request is filled properly without violating the patient's privacy rights. Most medical record requests are made for the continuation of a patient's healthcare and these requests are fulfilled **without charge** to the patient, physician, or other healthcare entity making the request.
- In those instances when a retrieval and copy charge can be invoiced (i.e. attorney, insurance company) we do not feel it is fair to cap those charges at \$50 if provided in an electronic version. It is not unusual for requests of this type to exceed 500 pages and go back 5 to 10 years.

NDHIMA would appreciate the opportunity to testify against HB 1174 at any upcoming hearings. Please keep me informed regarding any upcoming activity pertaining to HB 1174.

Thank you,  
Deb Selland, RHIT, CCS  
President NDHIMA  
701-751-3601

# 1

**Subject:** HB 1174 - relating to the cost of medical records

Dear Chairperson Lee and Committee members:

On Monday, March 7 I testified in front of you on HB 1174 and the proposed Amendments suggested by Ms. Johnson and myself. Subsequent to our testimony, representatives from health information technology spoke in opposition to specifically to the changes as reflected at page 1, lines 19-24. I wanted to respond and provide some perspective to those comments and any concerns this committee may have as well as be available for questions. Since the only opposition is to these specific lines, I will refrain my comments to only this portion of the bill and the amendments to §23-12-14 and 26.1-41-12.

Initially, allow me to explain that with respect to the particular language at issue, the reason we (plaintiff's law firms which represent injured citizens and the insurance companies as represented by Ms. Johnson) are seeking to amend the current statutory language is because we have experienced regular situations in which health care providers are providing copies of large volumes of medical records in an electronic format (typically in the form of a CD containing this information) and charging very significant, and we believe to be unreasonable, fees. I have no objection to receiving this information via CD, etc. and believe that in our day and age, it is the environmentally sound thing to do rather than needing to kill two trees to make copies of some of the substantial medical records which are maintained in certain patient's files. Alternatively, from our perspective, when there is *no paper cost, no ink / toner cost, when the postage is significantly less because of not having to send records in a box*, etc. the cost for providing these records in a CD / electronic format is not nearly as costly as providing a hard copy. I cannot reasonably fathom a sound argument that the cost of providing medical records in an electronic format is as expensive as paying someone to sit at a copy machine, make copies, mail those out, etc. Presumptively, technology of this nature provides a cost and time savings to all parties.

The practice of some medical facilities in this state is to send the copies of patient's medical records on CD and to charge the full rate of hard paper copies for the CD. In the past I have typically expressed to these facilities that I am fine with receiving the information in this format and I have typically sent the facility a check for between \$50.00 and \$100.00 for the CD. I have communicated that if this is not an acceptable payment, then the facility is free to send me a complete hard copy of the records and credit the funds I have sent. *In every one of these situations, the facility has chosen to make a hard copy and bill me for the remainder.* This is not because it is done at a cost savings, but rather to allow the medical facility to receive the full rate and make a profit. In larger injury / surgical, etc. cases it is very common for medical records at these facilities to exceed 500, 1,000 or more pages. Using an example, if the medical provider has 750 pages of records and they copy these all onto a CD, under current law the patient is being charged \$563.75 for a copy of the CD! I pass this cost on to my clients and the patients of these facilities. Let me express very clearly that I have no personal card in the bill before this committee because not one cent of this actually comes out of my own pocket. Alternatively, I cannot tell you how many times I have patients / clients call up and express outrage at the fact that a CD with their very own medical information cost them \$563.75 in these types of situations. The patient / client will typically explain to me how Kinko's / Staples, etc. charges \$.05 per copy and it is outrageous how they are being fleeced by the medical provider. My answer is ... that is the law.

The ultimate question is whether this is reasonable, in the best interest of all parties, and environmentally sound. I think the answer to that is "no" in every instance. Let me focus on the best interest of the medical facility since that is where the opposition's focus is.

If I am required to pay \$.75 per page for larger volumes of medical records, I am going to require on every occasion that these records be sent by hard copy, not by CD, etc. I understand that the health information's position is that there may be time in gathering the records together into an electronic format. However, this is going to occur whether they are providing those records via CD or via hard copy. The difference is that when they then provide copies via hard copy vs. a CD, they have to actually make all the copies, have a person watch over and monitor the making of the copies, and mail them to me / the patient at the \$.75 per page cost. Alternatively when they provide the records by CD, all of these additional steps either do not need to take place, or take place at a significantly reduced cost to the health care provider. Further, as indicated, we are all being environmentally sound.

The Health Information opposition's position is that the flat fee be raised to \$500.00. Respectfully, I don't see how that resolves anything nor how that is truly watching out for the best interests of our citizens and the patients of these facilities who should be able to access their own records at a reasonable cost. (I suspect most of our citizens are of the mistaken belief that they have a right to get their own records free). I sincerely believe that paying \$50.00 for a CD that costs less than a dollar with this information is a reasonable cost. As this committee is very aware, we are not seeking to change the \$.75 per page fee because we are not contesting that this is at least in the ballpark of reasonable given the time, effort, etc. in handling files. Another option may be appropriate for consideration by this committee, which would allow at least some degree of reasonableness, which would be to eliminate the flat fee idea altogether and simply reduce the per copy charge for records provided in an electronic format. In this situation, one would hypothetically simply insert language which provides that when the copies are provided in an electronic format, the per page rate would be something like \$.10 or \$.25 per page (similar to the proposed fax rate) rather than the \$.75 per page rate. This would allow the medical providers to know that they are not capped by a flat fee rather while also allowing some sense of reasonableness to the charge. (Frankly, my suspicion is that if most ND Citizens knew they had to pay \$.25 per page for their medical records and they are not even actually getting a record, but rather a copy on a CD, they would still question why \$.25 per page is reasonable, but once again, my effort is not to bankrupt health care providers, but rather to allow some sense of reasonableness to enter the current system.)

I believe it was Senator Uglem who asked about inflation. (My apologies if I am not correct on this). I would quickly respond that I think inflation is already built into the \$.75 per page, etc. fee. As indicated, most of our citizens are very aware that at Staples, etc. they can get copies made for \$.05 cents. When the medical providers are charging 15 times what the market provides, there is a lot of gap for inflationary purposes. Additionally, historically copy fees, technology, etc. are such that the actual costs of reproduction, etc. have decreased over time.

Lastly, I would comment that while I understand this is not a particularly exciting bill, I do believe it is a fair and important bill which allows some degree of reasonableness to the billing for patient's copies of medical records.

I thank you for your consideration of these issues and am certainly willing to respond to any questions or concerns.

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Phone: (701) 250-1369  
Fax: (701) 250-1368  
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#1  
Testimony in Opposition of HB 1174

Senate Human Services Committee/Red River Room

10:30 a.m. 3/7/11

Good morning Chairman Lee and Committee Members. My name is Patti Kritzberger. I am the Education Director for the North Dakota Health Information Management Association as well as the Health Information Management Director at Sakakawea Medical Center in Hazen, ND. I am here today on behalf of over 250 members of NDHIMA who are opposed to House Bill 1174, a bill relating to the cost of reproducing medical records and bills. NDHIMA members are the professionals who typically release medical record information.

While we are in agreement with some sections of the proposed bill, we are in disagreement with Section 2. Lines 19-22 "If this charge exceeds fifty dollars and the health care provider is capable of providing the copies in an electronic, digital, or other computerized format, the health care provider shall provide the copies to the requesting party in that alternative format for a flat fee not to exceed fifty dollars."

As a health information professional, I would like the committee to consider the following discussion points:

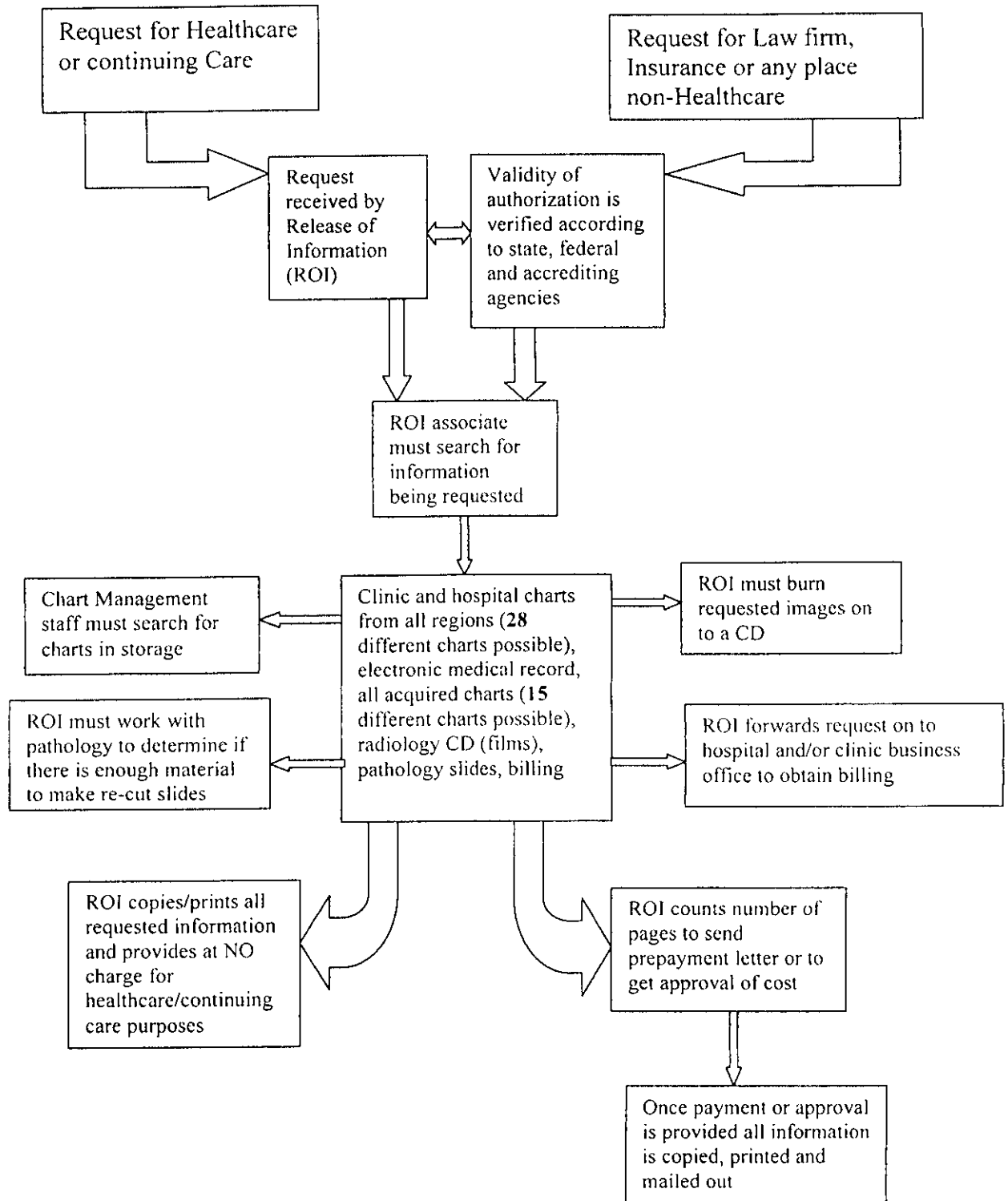
- Our association wishes to advise the committee that whether copies of medical records are provided in paper format or electronic, the work in retrieving and processing the request is equal. Copying medical records into an electronic format is **not** a simple push of a button.

- Most facilities with electronic capabilities are working in a hybrid-type of situation. Part of a medical record may be in paper format while other parts may come from one or many computerized systems. Our story board reflects one ND facility which, depending on the request, may retrieve records from as many as 43 separate charting systems. A single medical record request may include records from multiple clinics, multiple campuses and records acquired from facility buy-outs. Additional computerized systems where records may reside include a pathology system, a radiology system and a billing system.
- Providing copies of medical records in most facilities is a totally separate process than providing copies of medical bills. At best, the Medical Record Department must coordinate with the Billing Department to obtain copies of the medical bill. Some facilities keep medical bills off-site or even hire third-party vendors to perform billing services.
- An HIM professional spends much time in making sure the request is filled properly without violating the patient's privacy rights. The authorization for release of medical information must be verified according to all state, federal and accrediting agencies prior to even beginning the process of reproducing a medical record.
- It is important for the committee to understand that, after surveying several ND hospitals, NDHIMA found that approximately 89% of all medical record requests are made for the continuation of a patient's healthcare and these requests are fulfilled **without charge** to the patient, physician, or other healthcare entity making the request.

- This leaves only 11% of all medical record requests allowable to impose a retrieval and administration fee (i.e. attorney, insurance company). It is not unusual for requests of this type to exceed 500 pages and go back five to ten years.
- Statistics gathered for the past year indicate that of the 11% of the medical record requests invoiced, 47% would have exceeded the proposed fifty dollar cap if applying the current formula. The law allows, when provided in paper format, a twenty dollar fee for the first twenty-five pages and 75 cents per page thereafter.
- NDHIMA urges the committee to remove lines 19-22 in Section 2 or raise the proposed cap from fifty dollars to five hundred dollars when records are provided in alternative formats.
- NDHIMA strongly believes that providing copies of medical records, whether in paper or electronic format, are a time-consuming, costly process. It is unfair to penalize a facility for spending money on the technology to provide an electronic version of a medical record but receive less than if providing the same record in a paper version.
- A fifty dollar cap does not take into consideration the cost of purchasing and maintaining any kind of electronic system, the wages and benefits associated with personnel producing the electronic copy, nor does it cover the cost of materials (paper, copy machine toner) involved in fulfilling the request.

Thank you for allowing me the opportunity to voice the concerns of the ND Health Information Management Association with HB 1174. Unless amended, NDHIMA recommends a no vote on HB 1174. I would be glad to answer any questions from the committee at this time.

## *Release of Information Process to Produce Electronic Medical Records*



PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1174

That the Senate recede from its amendments as printed on pages 1176 and 1177 of the House Journal and pages 836 and 837 of the Senate Journal and that Engrossed House Bill No. 1174 be amended as follows:

Page 1, line 16, replace "requested" with "either in paper or facsimile format"

Page 1, line 16, overstrike "no more"

Page 1, line 17, overstrike "than"

Page 1, line 18, after "pages" insert "or in an electronic, digital, or other computerized format at a charge of thirty dollars for the first twenty-five pages and twenty-five cents per page after twenty-five pages"

Page 1, line 19, remove "If this charge exceeds fifty dollars and the health care provider is"

Page 1, remove lines 20 through 24

Page 2, remove lines 1 through 3

Page 2, line 27, overstrike "not"

Page 2, line 27, overstrike "more than"

Page 2, line 29, remove "or medical bills"

Page 2, line 29, overstrike "provided" and insert immediately thereafter "or medical bills in paper or facsimile format"

Page 2, line 30, after the period insert "In an electronic, digital, or other computerized format, a person may charge thirty dollars for the first twenty-five pages and twenty-five cents per page after twenty-five pages for providing a copy of medical records or medical bills to a basic no-fault insurer pursuant to this chapter."

Page 2, line 31, remove "If this charge exceeds fifty dollars and the health care provider is capable of"

Page 3, remove lines 1 through 8

Renumber accordingly